BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

IN THE MATTER	)	
	)	
IMPLEMENTATION OF SECTIONS 3(N)	)	
AND 332 OF THE COMMUNICATIONS ACT	)	GN DOCKET NO. 93-252
	)	
REGULATORY TREATMENT OF MOBILE	)	
SERVICES	)	

SBC'S REPLY COMMENTS
ON *FURTHER NOTICE OF PROPOSED RULEMAKING*

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TABLE OF CONTENTS

PAGE

SUMMARY

Southwestern Bell Corporation ("SBC") submits these Reply Comments in response to the more than sixty sets of Initial Comments filed in response to the Commission's Further Notice of Proposed Rulemaking herein.

SBC points out herein that nearly all initial commenters opposed the imposition of a spectrum aggregation cap on CMRS providers. If an aggregation cap were to be considered, however, it should be applied only on a service-specific basis.

Furthermore, the Commission should treat all CMRS providers similarly in order to comply with the mandate of Congress in the Omnibus Budget Reconciliation Act of 1993. All technical rules need not be identical, but regulatory governance should be as nearly identical in effect as possible. The arguments of parties who would carve out exceptions for certain services should be rejected as the self-serving requests that they are. The interests of regulatory parity would also be served be retaining the antenna heights and higher power limits of Part 90 providers for all CMRS providers.

SBC points out that the Commission's third option for interoperability, to maintain current standards of interoperability for cellular providers but to refrain from imposing such standards across service boundaries (e.g., between SMR and cellular equipment), received widespread support from initial commenters. SBC suggests the adoption of that option.

Finally, also in the interest of furthering regulatory parity for CMRS providers, SBC urges the Commission to treat SMR

providers similarly to cellular providers for purposes of wide-area licensing and of participation in PCS. Virtually all commenters rejected the Commission's proposal that wide-area 800 MHz SMR providers be permitted to self-define their service areas. Instead, those commenters argued, wide-area SMR providers, both with respect to 800 MHz and 900 MHz service, should be licensed on a geographic basis, and such licensing should be on an MTA basis. SBC pointed out the substantial similarity of wide-area SMR service to cellular service and suggested that the licensing be accomplished on an MSA/RSA basis, as is the case with cellular. SBC also suggested that SMR providers be subject to the same eligibility restrictions with respect to PCS licensing as are cellular providers.

SBC urges the Commission to adopt these positions, as well as other positions stated by SBC in its Initial Comments, as furthering the accomplishment of regulatory parity for CMRS.

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Services	)	

REPLY COMMENTS OF SOUTHWESTERN BELL CORPORATION
IN RESPONSE TO COMMENTS ON
FURTHER NOTICE OF PROPOSED RULEMAKING

Southwestern Bell Corporation ("SBC") hereby respectfully submits these Reply Comments in response to the more than sixty sets of Initial Comments filed in response to the Commission's Further Notice of Proposed Rulemaking ("FNPRM") herein. As with its Initial Comments, SBC will address in its Reply Comments only a few of the many issues raised by the FNPRM. SBC's silence on other matters, however, does not necessarily imply agreement with the Commission's proposals in the FNPRM; rather, SBC in some cases has chosen not to supplement its previous comments herein.

I. THE COMMISSION SHOULD NOT IMPOSE AN ACROSS-THE-BOARD CAP ON SPECTRUM AGGREGATION, RELYING INSTEAD, AND ONLY IF NECESSARY, UPON SERVICE-SPECIFIC CAPS.

Nearly all initial commenters (including SBC) opposed the imposition of a spectrum aggregation cap on CMRS providers. Only five or six parties actually supported the concept. When these positions are closely examined, even these can be harmonized with the position of SBC. For example, American Personal Communications ("APC") supported the concept of a cap but argued that the

Commission should not develop a generic cap until service-specific caps are first determined.[1] APC specifically argued that the caps on cellular carriers recently adopted by the Commission should take precedence over any generic caps set herein.[2] Of course, once such service-specific caps are in place, an aggregate cap would be both superfluous and confusing. Similarly, the Southern Company appeared to support an aggregate spectrum cap, but limited its discussion to the matter of the size of cap which should be applicable to wide-area SMR providers.[3] Later, the Southern Company indicated that reliance on a gross 40 MHz limit for all CMRS services risks anti-competitive effects regardless of the geographic area used by the Commission.[4] Taken together, the unspoken argument of both APC and Southern Company was that service-specific caps are both desirable and preferable.

Vanguard Cellular Systems, Inc. ("Vanguard") supported a spectrum cap, but pointed out that any CMRS cap should not hamper the ability of CMRS providers to offer a broad array of communications services.[5] The obvious solution to this problem is to limit the caps to service-specific ones, not to increase the total amount of spectrum permitted, as Vanguard suggested.

New Par suggested that aggregation caps are appropriate but that they should apply only to "substantially similar" CMRS

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[1] Comments of American Personal Communications, pp. 1-2.

[2] Id.

[3] Comments of the Southern Company, p. 14.

[4] Id., pp. 17-18.

[5] Comments of Vanguard Cellular Systems, Inc., pp. 11-14.

services, thus allowing a PCS provider to acquire spectrum for, e.g., paging service.[6] However, its rationale, that this limit will encourage parity among providers, is faulty, for so long as a provider may seek as much spectrum in a geographic area as its competitors may seek, parity exists.

On the other hand, the overwhelming majority of commenters, representing a cross-section of industry participants, opposed the aggregation cap, using many the same arguments as did SBC. Rationales included:

1. Such a cap is totally unsupported in economic theory or antitrust law and is based on a narrow view of relevant product markets;[7]

2. A cap would inhibit the ability of SMR operators to establish systems capable of competing with broadband CMRS operations by prohibiting necessary capital investments;[8]

3. A cap is not needed since the CMRS market is competitive and spectrum is allocated through competitive bidding;[9]

4. A uniform spectrum cap will disproportionately affect particular non-cellular SMR providers, thereby hindering both technological development and the growth of competition;[10]

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[6] Comments of New Par, p. 16.

[7] Comments of Airtouch Communications, p. 6; Comments of Nextel Communications, Inc., p. 24.

[8] Comments of American Mobile Telecommunications, Inc., pp. 31-32.

[9] Comments of BellSouth Corporation and Affiliates, pp. 6-12.

[10] Comments of Comcast Corp., p. 4.

5. A single cap applied to multiple services undermines uniform regulation by subjecting dissimilar services to identical regulation and creates administrative difficulties, e.g., in conforming the cap to different license areas;[11]

6. So much spectrum is now or soon will be available that there is no need for such a cap, and a cap would prevent utilization of the spectrum according to its highest economic use;[12]

7. The concept of such a cap is inconsistent with the Commission's preference for spectrum auctions (i.e., the workings of the market rather than regulation);[13]

8. Hoarding of spectrum will be difficult given the plethora of spectrum available and the imposition of buildout requirements;[14]

9. A general cap could unfairly limit the participation of some entities in new technologies as spectrum and technological improvements become available;[15]

10. The record is not adequate to support any particular spectrum aggregation amount and therefore its current adoption would be arbitrary and capricious;[16] and

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[11] Id., p. 6.

[12] Comments of Cellular Telecommunications Industry Association ("CTIA"), pp. 8-9.

[13] Comments of CelPage, Inc., pp. 21-22; and others.

[14] Century Cellunet, Inc., pp. 1-2.

[15] Comments of GTE Service Corp., pp. 18-19; Comments of NYNEX, pp. 4-5.

[16] Comments of Onecomm Corporation, pp. 8-11.

11. The record does not support any need for a spectrum cap.[17]

Many commenters supported caps only on a service specific basis, for virtually the same reasons. These reasons, which also parallel the arguments of SBC, included the following:

1. A service-specific approach allows greater "fine tuning" to promote competition;[18]

2. A service specific approach allows tailoring to specific fact circumstances, which this record lacks;[19] and

3. Existing regulations (e.g., PCS rules) adequately address the Commission's concern.[20]

With such universal opposition, even from those who might be perceived to benefit from the protection of an aggregation cap, the Commission should abandon its proposal.

II. THE COMMISSION SHOULD TREAT ALL CMRS PROVIDERS SIMILARLY IN ORDER TO COMPLY WITH THE MANDATE OF THE OMNIBUS RECONCILIATION ACT'S CREATION OF THE CMRS CATEGORY.

SBC contends that the intent of Congress with regard to the regulatory treatment of CMRS providers is clear and unequivocal: all CMRS providers should be provided similar regulatory treatment. This does not mean that all technical rules must be identical, since specific service configurations may impose unique

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[17] Comments of Roseville Telephone Co., p. 3; Comments of PageMart, p. 4.

[18] Comments of American Mobile Telecommunications Association ("AMTA"), p. 28.

[19] Century Cellunet, p. 3; Comments of NYNEX, pp. 5-6.

[20] Comments of Dial Page, p. 3.

needs for service-specific parameters. A good example is the need for specific sharing rules for those services which do not enjoy exclusive right to use of their allocated spectrum. Absent such considerations, however, regulatory governance should be as nearly identical as possible. Otherwise, the Commission would flout the Congressional directive "...to make such other modifications...as may be necessary and practical to assure that licensees in [formerly private radio] service are subject to technical requirements that are comparable to the technical requirements that apply to licensees that are providers of substantially similar common carrier services...." Omnibus Budget Reconciliation Act of 1993, Section 6002(d)(3)(B). For this reason, SBC suggested that the Commission use the same standard in determining whether regulatory parity should apply as it used in determining whether a service is a commercial mobile radio service; i.e., whether it is offered for profit, interconnected and available to a substantial segment of the public, or whether it is functionally equivalent to a CMRS.

At least one commenting party, U S West, seemed to agree, at least with respect to broadband CMRS services.[21] Most of those who appeared to disagree, supporting instead the Commission's test of consumer perception of substitutability, came to the conclusion that most CMRS services do meet this test and therefore should be treated under similar operational rules.[22] Others supported the

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[21] Initial Comments of U S WEST, pp. 3-5.

[22] See, e.g., Initial Comments of Bell Atlantic Companies, pp. 2-8; Comments of Cellular Telecommunications Industry Association, p. 2; Comments of GTE Service Corporation, pp. 3-8, Comments of New Par, pp. 2-4 (supporting similar treatment of all interconnected two-way voice and data services regardless of

Commission's test but wished to carve out exceptions for "traditional" (i.e., nontrunked) specialized mobile radio service (SMR),[23] wide-area SMR dispatch service,[24] 220 MHz service,[25] shared frequency services,[26] enhanced specialized mobile radio (ESMR),[27] mobile space segment operators,[28] public coast station services,[29] and even "narrowband services provided by rural telephone companies."[30] Nearly all of these requests should be treated by the Commission as the self-serving requests they obviously are and be rejected.

SMR Service

Vanguard made a powerful argument that traditional SMR, which offers vehicular-mounted or portable voice and/or data mobile communications, is substantially similar because the services meet similar needs and services and because such SMR service effectively competes for customers with cellular licensees, despite the

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technical differences); Comments of GTE Service Corporation, pp. 4-8 (arguing that FCC should extend "PCS-type" flexibility to all CMRS operators).

[23]Comments of National Association of Business and Radio, Inc. ("NABER"), pp. 5, 8.

[24]Comments of Geotek Communications, pp. 3-5.

[25]Comments of SEA, Inc., pp. 3-9.

[26]Comments of Metrocall, pp. 7-8.

[27]Comments of American Mobile Telecommunications Association, Inc., Comments of the Southern Company, p. 5.

[28]Comments of TRW, Inc., p. 1.

[29]Comments of WJG Maritel Corp., pp. 1-3.

[30]Comments of Rural Cellular Association, p. 10.

differences in system capacity and geographic area served.[31] As Vanguard further noted, such disparities have never governed regulatory status; it cited the Commission's rationale in holding that any offering of interconnected service by a traditional SMR licensee will result in CMRS classification.[32] Indeed, distinctions of size of service territory and system capacity are totally lacking in the statutory definition of CMRS.

Thus, the Commission's suggestion that trunked SMR systems, which offer only limited interconnected service ancillary to dispatch service, are not comparable to cellular or to ESMR (FNPRM at para. 18) is incorrect and should be abandoned. The argument of the American Mobile Telecommunications Association to the contrary[33] rested on the erroneous assumption that an SMR provider's limited spectrum and lack of roaming capability rendered it inherently different than cellular service. Nor is PCC Management Corp. correct when it argued that 800 MHz SMR is not "substantially similar" to cellular service because it is licensed in a fragmented manner and has sporadic geographic coverage.[34] Similar comments could be made about cellular service itself, at least in its earlier days. SBC agrees with Vanguard that SMR systems which qualify as CMRS should be treated similarly to cellular providers because their classification as CMRS renders them "substantially similar."

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[31] Comments of Vanguard, pp. 2-7.

[32] Id. See Second Report and Order at para. 92.

[33] See Comments of AMTA, pp. 8-9.

[34] Comments of PCC Management Corp., pp. 2-3.

Geotek argued that the Commission should adopt two additional criteria, the nature of the customers targeted and the nature of the service provided, in its deliberation on what constitutes "substantially similar" service, because it contended that the Commission erroneously classified its 900 MHz, wide-area SMR service as similar to cellular service.[35] Ironically, while Geotek pointed to Ram Mobile Data as another misclassified 900 MHz SMR provider, Ram commented that it approved of Commission treatment of its service as similar to cellular because it would equalize the competitive disadvantages of not being so classified![36] Geotek's argument was based on the fact that its service remains a dispatch, i.e., "one to many", rather than cellular's "one to one" communication. If this is true, it is not likely to qualify as CMRS because it is not "interconnected" and therefore Geotek need not be troubled by the reconciliation of SMR and cellular rules.

Despite the concern voiced by United States Sugar Corporation ("United States Sugar") that this position might result in the regulation of purely private systems,[37] its suggested solution of evaluating the issue by reference to geographical coverage, system architecture and "future service plans" is vastly more complex. If the system operated by United States Sugar is truly private with no interconnection or trunking, it will not be subject to the parity rules because it will not qualify as a CMRS.

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[35] Comments of GEOTEK, pp. 3-6.

[36] Comments of Ram Mobile Data, pp. 1, 6.

[37] Comments of United States Sugar, pp. 7-9.

The Commission should note that Onecomm Corp., an SMR provider entering the ESMR business, supported regulatory parity for SMR and cellular providers on the grounds of fair competition.[38]

ESMR Service

Most commenters agreed that ESMR should be treated similarly to cellular service, usually based on the fact that, as McCaw put it, "ESMR licensees have...sought to provide services that are functionally indistinguishable to the consumer from Part 22 cellular services...."[39] SBC agrees with McCaw and the Commission in an earlier order in this docket that one of the driving factors behind Congress' decision to adopt the CMRS regulatory structure was the fact that "some licensees are using SMR as a vehicle to develop wide-area multi-channel interconnected systems that potentially offer the public a competitive alternative to cellular service." Second Report and Order, para. 7, 13. See also Comments of Russ Miller Rental at pp. 2-3; Comments of NYNEX Corp. at p. 3. While American Mobile Telecommunications Association, Inc., argued that wide-area SMR spectrum cannot be considered functionally equivalent to cellular as long as SMR frequencies are not "clear," this disadvantage of SMRs is not appreciably different than emerging PCS providers, who have been found by the Commission nonetheless to be substantially similar to cellular.

220 MHz Service

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[38] Comments of Onecomm, pp. 3-4.

[39] Comments of McCaw Cellular Communications, Inc., pp. 22-23.

SEA, Inc. argued that 220 MHz service might technically for parity treatment but should be exempt because the functionalities offered on that spectrum truly are "experimental," and a "test bed for the deployment of narrowband equipment in the marketplace to encourage the meaningful development of narrowband in other portions of the spectrum."[40] While this rationale appealed to the Commission's discretion to encourage innovation in telecommunications service, SBC noted that not all providers in the 220 MHz market agreed that asymmetrical regulation is preferable. Suncom Mobile and Data, whose Petition for Declaratory Ruling is incorporated in the FNPRM, saw competitive equality as mandating uniform treatment among cellular, 220 MHz, and other CMRS providers.[41] SBC urges the Commission to consider such requests carefully, for they echo the key motivation of the Congress in requiring this rulemaking.

Miscellaneous Services

Other positions are even less tenable. TRW, for example, urged the Commission to consider mobile space segment operators as CMRS providers. Network USA and Metrocall suggested that shared frequency services should be treated differently than exclusive frequency users. Incredibly, Rural Cellular Association stated (without support) that "narrowband services provided by rural telephone companies are not substantially similar to cellular and PCS services." All three are wrong. Cellular-type regulation may be less or more onerous than that which these companies currently

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[40] See Comments, pp. 4-8.

[41] See also Comments of Onecomm Corp., pp. 3-4.

experience, but that does not change the fact that they are sufficiently similar as to be treated as CMRS and therefore to be regulated in the same fashion. In the case of rural cellular, of course, they are identical.

III. THE COMMISSION SHOULD RETAIN THE HIGHER POWER LIMITS OF THE PART 90 PROVIDERS FOR ALL CMRS PROVIDERS.

Less unanimity appeared on this point. GTE Service Corporation argued that the cellular and wide-area rules must not disadvantage the cellular licensee competitively, and therefore the antenna height and power limits contained in Part 22 should be applied to both wide-area SMR and cellular service providers.[42] McCaw Cellular appeared to be in lockstep, observing that disparities in such rules could directly impact a provider's financial performance.[43] Similarly, PCIA supported a movement toward conformity, while acknowledging that lowering power limits could be a burden to some small providers, much like SBC's alternative position that if power limits for SMR providers are not lowered, then cellular limits should be raised.[44] Moreover, the burden alleged by PCIA may be illusory, since wide-area SMR providers only recently began to provide service, and that in only one area of the country. Ram Mobile Data supported conformity, but not lowering SMR power limitations, thus opting for SBC's second option.[45]

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[42] Comments of GTE Service Corporation, pp. 11-12.

[43] Comments of McCaw Cellular Communications, Inc., pp. 26-27.

[44] Comments of Personal Communications Industry Association, p. 12.

[45] Comments of Ram Mobile Data, p. 8.

Nextel, while supporting a flexible approach of high power for low density areas and low power for high density, did not seem to oppose extending this principle to its competitors, the cellular companies.[46]

While others took a different view, each alternative is flawed. NABER opposed reconciliation because of increased cost without increased benefit--to its members.[47] United States Sugar made a similar point.[48] The benefit to competition of such regulatory parity is not addressed in either pleading. Geotek urged permission for higher power limits, without demonstrating the alleged "higher efficiency" which it purportedly achieves in this manner.[49] American Personal Communications urged the Commission to defer the issue to service-specific dockets, thus ignoring the need for parity.[50] AMTA saw no need for a change because the limits "do not appear to inhibit the ability of these reclassified [Part 90] CMRS providers to participate on a competitive basis in the general CMRS marketplace," thus ignoring the needs of its competitors.[51]

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[46] Comments of Nextel Communications, Inc. ("Nextel"), pp. 41-42.

[47] Comments of NABER, pp. 7, 26.

[48] Comments of United States Sugar, p. 12.

[49] Comments of Geotek, pp. 13-16.

[50] Comments of APC, p. 4.

[51] Comments of AMTA, p. 7.

For these reason, the Commission should conform power limits for both cellular and wide-area SMR at the same level, preferably at the higher of the two.

IV. THE COMMISSION SHOULD NOT MANDATE INTEROPERABILITY ACROSS SERVICE DEFINITIONS.

The Commission's third option for interoperability, to maintain current standards of interoperability for cellular providers but refrain from imposing such standards across service boundaries (e.g., between SMR and cellular equipment), received widespread support from initial commenters. Only one party, Brown & Schwaniger (a law firm representing SMR and ESMR providers), supported ANY extension of interoperability standards. This firm argued that the Commission's history of mandating interoperability among cellular providers but failing to require it for SMR, ESMR and AMTS providers, compelled the conclusion that market forces cannot be trusted to create interoperability. Therefore, they concluded, the Commission should mandate it.[52]

Brown & Schwaniger failed to consider that the success of cellular development occurred despite the fact that interoperability between cellular equipment and landline equipment, for example, or between cellular and SMR equipment, and even between cellular and IMTS equipment, was never required. The principal reasons for this success, therefore, would appear to be (1) interoperability was limited to providers of the SAME service and (2) interconnection with the landline telephone network was mandated. Similarly, so long as interconnection with the landline network is available,

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[52] Comments of Brown & Schwaniger, pp. 11-13.

communication with any other user will be possible. Therefore, the significant consumer losses created by the increase in size, weight and expense of interoperable equipment outweighs any perceived benefit from multiple service interoperability. SBC takes no position on whether providers of a single service should be required to maintain interoperability with other providers but does not oppose continuation of that standard for cellular service.[53]

All other commenters addressing the subject took the more aggressive position that the Commission should rely exclusively on the market to force interoperability. This position has the advantage of allowing consumers to make the choice between expense and inconvenience on the one hand and sophistication on the other. American Personal Communications, for example, argued that interoperability would slow new service entry, add to consumer costs and obstruct marketplace forces.[54] Ericsson Corp, an equipment manufacturer who might be expected to profit from a mandate of interoperability, asserted that the Commission should not establish such standards, leaving the market to decide the issue instead.[55] NABER asserted that interoperability is not feasible and that a mandate would stifle innovation.[56] Ram Mobile Data claimed that the differences between ESMR and cellular make

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[53]This position is nearly identical to that of Geotek. See Comments of Geotek, p. 18.

[54]Comments of APC, at pp. 4-5.

[55]Comments of Ericsson Corp., pp. 2.

[56]Comments of NABER, p. 29. See also Comments of Pittencrieff Communications Inc., p. 10, which argued that interoperability mandates for ESMR would restrict advances in wireless communications.

interoperability among these services impractical and an impediment to innovation. Ram also pointed out the significant increase in cost which would be created by such a mandate.[57] United States Sugar took a similar position with regard to traditional SMR service, noting that interoperability would not add any value to these systems.[58] New Par suggested that the Commission permit cellular providers to supply non-interoperable equipment as well as interoperable, so that they can compete for specialized services on their cellular frequencies.[59] Paging Network Inc. opposed the imposition of interoperability standards on paging services, claiming their is no basis for requiring them.[60] PCIA and Bell-South found the standards unnecessary for any CMRS.[61]

Because the record overwhelmingly supports no extension of current interoperability standards, the Commission should exercise its option three, maintaining interoperability of cellular service but declining to extend it to other services.

V. THE COMMISSION SHOULD TREAT SMR PROVIDERS SIMILARLY TO CELLULAR PROVIDERS FOR PURPOSES OF WIDE-AREA LICENSING AND OF PARTICIPATION IN PCS.

In its Initial Comments, SBC opposed the Commission's proposal that, as an alternative to MTA-based licensing for wide-area SMR, that 800 MHz SMR licensees be allowed to establish and

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[57] Comments of Ram Mobile Data, pp. 8-9.

[58] Comments of United States Sugar Corp., p. 13.

[59] Comments of New Par, p. 11.

[60] Comments of Paging Network Inc., pp. 24-25.

[61] Comments of PCIA, p. 14; Comments of Bell South Corp. and Affiliates, pp. 15-16.

operate in self-defined service areas. Virtually all other commenters also opposed the concept of self-defined service areas and suggested instead that the Commission adopt geographic-based service areas for wide-area SMR systems.

Providers of ESMR services as well as trade associations composed of such providers predictably endorsed the concept of licensing SMR spectrum for ESMR services on a wide-area basis rather than the existing site-by-site, channel-by-channel basis, although several parties offered detailed procedures with respect to the designation of certain SMR channels for ESMR wide-area systems while leaving other channels clear for traditional SMR dispatch services. Most of the commenters suggested that the appropriate geographic designation for wide-area SMR licensing, both for 800 MHz and for 900 MHz service, would be on the basis of MTAs.[62] While SBC fully supports the principle that wide-area SMR service should be licensed on a geographic basis rather than a self-defined basis, SBC would also point out the numerous comments that affirmed the similarity between ESMR and cellular service.[63] Therefore, the more appropriate geographic basis for ESMR service would be the MSA and RSA designations under which cellular services are licensed and operated.

Likewise, as SBC stated in its Initial Comments, SMR providers must be subject to the same eligibility restrictions with respect to PCS licensing as cellular providers. Bell Atlantic

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[62] Comments of AMTA, p. 15; Comments of Geotek, p. 10; Comments of NABER, p. 22; Comments of Nextel, p. 15; Comments of Pittencrieff, p. 6; and Comments of Ram Mobile Data, p. 7.

[63] See discussion on pp. 7-10 above.

supported this point, stating that the spectrum cap proposal should be limited to imposing ownership limits on wide-area SMRs that parallel other ownership limits for CMRS.[64] Such equity in eligibility restrictions would promote concerns both for diversity in PCS service providers and for parity among CMRS providers.

VI. CONCLUSION.

As SBC pointed out herein, nearly all initial commenters opposed the imposition of a spectrum aggregation cap on CMRS providers. If an aggregation cap were to be considered, it should be applied only on a service-specific basis.

Furthermore, the Commission should treat all CMRS providers similarly in order to comply with the mandate of Congress in the Omnibus Budget Reconciliation Act of 1993. All technical rules need not be identical, but regulatory governance should be as nearly identical in effect as possible. The arguments of parties who would carve out exceptions for certain services should be rejected as the self-serving requests that they are. The interests of regulatory parity would also be served be retaining the antenna heights and higher power limits of Part 90 providers for all CMRS providers.

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[64] Comments of Bell Atlantic, pp. 8-10.

Finally, also in the interest of furthering regulatory parity for CMRS providers, SBC urged the Commission to treat SMR providers similarly to cellular providers for purposes of wide-area licensing and of participation in PCS. Virtually all commenters rejected the Commission's proposal that wide-area 800 MHz SMR providers be permitted to self-define their service areas. Instead, those commenters argued, wide-area SMR providers, both with respect to 800 MHz and 900 MHz service, should be licensed on a geographic basis, and such licensing should be on an MTA basis. SBC pointed out the substantial similarity of wide-area SMR service to cellular service and suggested that the licensing be accomplished on an MSA/RSA basis, as is the case with cellular. SBC also suggested that SMR providers be subject to the same eligibility restrictions with respect to PCS licensing as are cellular providers.

SBC urges the Commission to adopt these positions, as well as other positions stated by SBC in its Initial Comments, as furthering the accomplishment of regulatory parity for CMRS.

Respectfully submitted,

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July 11, 1994

CERTIFICATE OF SERVICE

I, Donna Cox, hereby certify that copies of the foregoing Reply Comments on *Further Notice Of Proposed Rulemaking* of Southwestern Bell Corporation have been served by first class United States mail, postage prepaid, on the parties listed on the attached.

Donna J. Cox

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July 11, 1994

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